

## **Title 2. California Public Employees' Retirement System**

### **NOTICE OF PROPOSED REGULATORY ACTION**

NOTICE IS HEREBY GIVEN that the Board of Administration (Board) of the California Public Employees' Retirement System (CalPERS) proposes to take the regulatory action described below in the Informative Digest after considering public comments, objections, or recommendations.

#### **I. PROPOSED REGULATORY ACTION**

In this filing, the Board proposes to amend Article 7.6 entitled "Participation in Risk Pools" in Title 2 of the California Code of Regulations. Sections 588.1 and 588.2 would be amended. This proposed regulatory action pertains to the participation of contracting agencies, including county offices of education, school districts and community college districts, in risk pools for retirement purposes.

#### **II. WRITTEN COMMENT PERIOD**

Any interested person may submit written comments relevant to the proposed regulatory action. The written comment period closes at 5:00 p.m. on February 16, 2009. The Regulations Coordinator must receive all written comments by the close of the comment period. Comments may be submitted via facsimile at (916) 795-4607; e-mail at [joe\\_parilo@calpers.ca.gov](mailto:joe_parilo@calpers.ca.gov); or mailed to the following address:

Joe Parilo, Acting Regulations Coordinator  
California Public Employees' Retirement System  
P.O. Box 942702  
Sacramento, California 94229-2702  
Telephone: (916) 795-3484

#### **III. PUBLIC HEARING**

Comments on the proposed actions will also be taken at a public hearing to be placed on the agenda of the regularly scheduled meeting of the Benefits and Program Administration Committee of the CalPERS Board:

March 17, 2009  
9:00 a.m.  
California Public Employees' Retirement System  
Lincoln Plaza North, Auditorium  
400 Q Street  
Sacramento, California 95811

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#### **IV. ACCESS TO HEARING ROOM**

The hearing room will be accessible to persons with mobility impairments, and it can be made accessible to persons with hearing or vision impairments upon advance request to the Regulations Coordinator.

#### **V. AUTHORITY AND REFERENCE**

The CalPERS Board has general authority to take regulatory action under Government Code section 20121. The Board has specific authority to amend sections 588.1 and 588.2 under Government Code section 20840. This action would implement, interpret and make specific Government Code section 20840.

#### **VI. INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

Since 2003, the Board has had authority to create, combine or eliminate risk pools for local miscellaneous and local safety members. The Board may establish by regulations, the criteria under which contracting agencies, including school employers that choose to contract as public agency employers, may participate in risk pools.

Beginning with June 30, 2003 actuarial valuations, plans with less than 100 active members have been mandated into risk pools based on their benefit formula and membership category. There are currently 10 public agency risk pools.

Changes to section 588.1 are being proposed to clarify the effective date for employee benefits mandated by risk pooling for both new and existing contracting agencies entering a risk pool.

Changes to section 588.2 are being proposed to modify the criteria under which contracting agencies with less than 100 employees may participate in a risk pool. The proposed amendment to section 588.2 would authorize staff to place a new contracting agency in an individual non-pooled plan rather than in a risk pool if CalPERS actuarial staff deem it necessary to protect pooled employers from potential unfavorable additional costs attributable to new contracting agencies.

#### **VII. EFFECT ON SMALL BUSINESS**

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The proposed regulatory action does not affect small business because it applies only to public agency participation in risk pools.

#### **VIII. DISCLOSURES REGARDING THE PROPOSED REGULATORY ACTION**

- A. **MANDATE ON LOCAL AGENCIES AND SCHOOL DISTRICTS:** The proposed regulatory action does not impose a mandate on local agencies or school districts.
- B. **COST OR SAVINGS TO ANY STATE AGENCY:** The proposed regulatory action does not impact costs or savings for any state agency.
- C. **COST TO ANY LOCAL AGENCY OR SCHOOL DISTRICT:** The proposed regulatory action does not impact costs or savings for any local agency or school district, such that costs would qualify for reimbursement under Government Code section 17500 et seq.
- D. **NONDISCRETIONARY COSTS OR SAVINGS IMPOSED ON LOCAL AGENCIES:** The proposed regulatory action does not impose non-discretionary costs or savings on local agencies.
- E. **COSTS OR SAVINGS IN FEDERAL FUNDING TO THE STATE:** The proposed regulatory action does not impact any federal funding to the state.
- F. **ADVERSE ECONOMIC IMPACT:** CalPERS has made an initial determination that the proposed regulatory actions will not have a significant statewide adverse economic impact directly affecting businesses including the ability of business in California to compete with business in other states.
- G. **COST IMPACT ON REPRESENTATIVE PRIVATE PERSONS OR BUSINESSES:** The CalPERS is not aware of any cost impacts that a representative private person, or business would necessarily incur in reasonable compliance with the proposed action.
- H. **IMPACT ON JOBS AND BUSINESSES WITHIN CALIFORNIA:** The proposed regulatory action will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.

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- I. EFFECT ON HOUSING COSTS: The proposed regulatory action has no significant effect on housing costs.

#### **IX. CONSIDERATION OF ALTERNATIVES**

The Board must determine that no reasonable alternative considered by the Board or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed action.

The Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulation at the above mentioned hearing or during the written comment period.

#### **X. CONTACT PERSONS**

Please direct inquiries concerning the substance of the proposed regulatory action to:

Jean Fannjiang  
Actuarial Office  
California Public Employees' Retirement System  
400 Q Street  
P.O. Box 942701  
Sacramento, California 94229-2701

Telephone: (916) 795-2475  
Fax: (916) 795-2744  
E-mail: Jean\_Fannjiang@calpers.ca.gov

Please direct requests concerning processing of this regulatory action to Joe Parilo, Acting Regulations Coordinator, at the address shown in Section II, or (916) 795-3484 (joe\_parilo@calpers.ca.gov).

#### **XI. AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS**

The entire rulemaking file is available for public inspection through the Acting Regulations Coordinator at the address shown above. To date the file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons (ISOR). A copy of the proposed text and the

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ISOR is available at no charge upon telephone or written request to the Acting Regulations Coordinator.

The Final Statement of Reasons can be obtained, once it has been prepared, by written request to Joe Parilo, Acting Regulations Coordinator, at the address shown in Section II.

For immediate access, the regulatory material regarding this action can be accessed at CalPERS' web site at [www.calpers.ca.gov](http://www.calpers.ca.gov) under *About CalPERS > Legislation, Regulations & Statutes > Regulatory Actions > Current Regulatory Actions*.

#### **XII. AVAILABILITY OF MODIFICATIONS TO PROPOSED AMENDMENT**

The Board may, on its own motion or at the recommendation of any interested person, modify the proposed text of the amendment on regulations after the public comment period has closed. It may amend sections 588.1 and 588.2 as modified if the changes are sufficiently related to the original text so the public could have anticipated them.

If the Board modifies its regulatory action in this manner, it will prepare a comparison of the original proposed text and the modifications for an additional public comment period of not less than 15 days prior to the date on which the Board adopts, amends or repeals the resulting regulation. A copy of the comparison text will be mailed to all persons who submitted written comments or asked to be kept informed as to the outcome of this regulatory action.